

Application No. 10/696,759
Amendment After Final dated April 13, 2006
Reply to Final Office Action mailed November 25, 2005

REMARKS

The present Amendment is in response to the Examiner's Final Office Action mailed November 25, 2005. Claims 1-24 remain pending.

Reconsideration of the application is respectfully requested in view of the following remarks. Please note that the following remarks are not intended to be an exhaustive enumeration of the distinctions between any cited references and the claimed invention. Rather, the distinctions identified and discussed below are presented solely by way of example to illustrate some of the differences between the claimed invention and the cited references. In addition, Applicants request that the Examiner carefully review any references discussed below to ensure that Applicants' understanding and discussion of the references, if any, is consistent with the Examiner's understanding.

I. CLAIM REJECTIONS

A. Rejection Under 35 U.S.C. § 103

The Examiner rejects claims 1-24 under 35 U.S.C. § 103 as being unpatentable over *Monson et al.* (U.S. Patent Application Pub. No. 2005/0036529 A1) in view of *Defelice et al.* (U.S. Patent No. 6,836,321).

Applicants traverse the Examiner's rejection for obviousness on the grounds that *Monson* does not constitute "prior art" relative to the present invention. *Monson* was filed Aug. 14, 2003 and was subsequently published on February 17, 2005. The Applicant's patent application, however, was filed October 29, 2003 and claims the benefit of United States Provisional Patent Application Serial No. 60/422,805, filed October 30, 2002 (a true and correct copy of which is enclosed herewith). As set forth in MPEP 706.02 V (D), the effective date of a patent application in instances such as here is as follows:

(D) If the application properly claims benefit under 35 U.S.C. 119(e) to a provisional application, the effective filing date is the filing date of the provisional application for any claims which are fully supported under the first paragraph of 35 U.S.C. 112 by the provisional application.

As the Examiner can appreciate after reviewing United States Provisional Patent Application Serial No. 60/422,805, the claims of the present application are supported by, and

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entitled to, the earlier filing date of Provisional Patent Application Serial No. 60/422,805. As described in 35 U.S.C. 103(a), *Monson* must qualify under some section of 35 U.S.C. 102 in order for the Patent Office to support a *prima facie* case of obviousness. Because the effective filing date of the Applicants' application is prior to the earliest date on which *Monson* is available as prior art, i.e. *Monson's* filing date, a *prima facie* case of obviousness has not been established. As such, the Applicants respectfully request that the rejection of claims 1-24 be withdrawn.

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CONCLUSION

In view of the foregoing, Applicants believe all of the pending claims are in allowable form. In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, or which may be overcome by an Examiner's Amendment, the Examiner is requested to contact the undersigned attorney.

Dated this 13 day of April, 2006.

Respectfully submitted,



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